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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,725	04/16/2001	Ellen O. Aeling	55788US003	7044

32692 7590 11/14/2003

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/835,725

Applicant(s)

AELING ET AL.

Examiner

William P. Watkins III

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-28.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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Attachment to Paper No. 12 Advisory Action:

1. Applicant argues regarding the 103 rejections that the limitation of "at least 50% of the normal incident light directed at the land area of the back surface of the construction is reflected" is not taught by the combination of the references. The examiner disagrees. Whitehead et al. in the abstract teaches that substantially all of the light rays, which strike the reflective portion of the image-bearing surface, are reflected within the enclosure and then emitted through the portion of the image, which transmits light. Detiker teaches at column 3, lines 55-60 that a major portion of the light source passes through the non-reflective areas after reflection around the housing. A "major portion" in the case of Detiker or "substantially all" in the case of Whitehead clearly imply greater than 50% reflection of the light falling on the areas made reflective, such as the area between the holes of Andriash as modified by the secondary references. Ross also seeks to "maximize" reflection (col. 46, line 60), which one of ordinary skill would take as being more than half of the incident light.

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Applicant also argues that col. 6, lines 15-35 and Figure 7 of Andriash do not meet the instant claim language of claims 11 and 20, which require a sign face capable of different appearances under different conditions, the sign face having a substrate and film construction, with perforations extending through the film construction. The examiner takes elements 50, 48, and 46 of Figure 7 as being part of the instant claimed "substrate" when the composite of Figure 7 is joined to a light box as shown in Figure 8, and elements 15a, 12a, 13a, and 24a being part of the instant claimed "film construction", which is perforated. The substrate and film construction in combination providing the claimed dual image capability under different lighting conditions of the instant claimed sign face. As pointed out in the last office action, structures of Figure 8 and 7 of Andriash and instant Figure 7 appear to have the same functions. Element 84 of the instant specification providing a substrate, which is colored, to change the appearance of light passing through the perforations in the film layer from the inner light, while element 48 of Andriash has translucent inks that modify the light passing from the light box through the perforations in the outer layer (element 12).

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Regarding the rejection using Logan et al. in combination with the other references applicant merely repeats the arguments, answered above, regarding the lack of teaching in the base combination. The rejections are thus maintained. The period of response to the final office action remains running three months from the mailing date of the final office action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420 (changes to 571-272-1503 as of Jan. 04). The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



WW/ww

November 12, 2003

**WILLIAM P. WATKINS III  
PRIMARY EXAMINER**